



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/824,901 | 04/02/2001 | Gregory Burns | MS1-095USC4 | 2420 |
| 22801 | 7590 | 05/17/2005 | EXAMINER | |
| LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201 | | | RYMAN, DANIEL J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2665 | |

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|-----------------------------|--|
| Office Action Summary | Application No. 09/824,901 | Applicant(s) BURNS ET AL | |
| | Examiner Daniel J. Ryman | Art Unit 2665 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-76 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 51-76 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's arguments with respect to claims 51-76 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 51-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of Sathe et al. (USPN 5,617,417).

4. Regarding claims 51 and 64, Applicant admits as prior art a content provider, comprising: a storage system to store video content (page 1, line 9-page 7, line 10); a server (ref. 22) connected to the storage system to serve the video content to a local service provider (ref. 26) which provides the video content to multiple clients (ref. 28, 30, 32) (page 1, line 9-page 7, line 10); a network port adapted for connection to a first network (ref. 24), the server serving the video content via the first network to the local service provider (Fig. 1) (page 1, line 9-page 7, line 10) where the first network is a high-speed, high-bandwidth network (page 1, line 9-page 7, line 10).

Applicant does not expressly disclose as prior art a transmitter, responsive to the server, to transmit a portion of the video content over a second network, the portion of the content being transmitted in addition to the content which is served to the local service provider via the first

Art Unit: 2665

network, the second network being independent from the first network and providing additional bandwidth so that the transmitter can serve the portion of the video content to the local service provider in an event that the portion of the video content is not served via the first network within a designated time period and where the second network is a satellite network. However, Applicant does disclose as prior art that video requires strict delay requirements such that the video is served within a designated time period (page 1, line 9-page 7, line 10). Applicant also discloses as prior art that the amount of bandwidth available on the network affects the amount of delay the network imposes on traffic (page 1, line 9-page 7, line 10). Sathe teaches, in a communication network, using a transmitter to transmit a portion of data (data in a subset of the communication links) over a second network (satellite network), the portion of the data being transmitted in addition to the data send over a first network (terrestrial network) (col. 7, lines 47-56), the second network (satellite network) being independent from a first network (terrestrial network) (col. 7, lines 47-56), where the second network provides additional bandwidth so that the transmitter can transmit data to a receiver on a path that has beneficial communication characteristics (load, bit error rate, availability, or QOS) where a path that has a high error rate is replaced with another path such that a satellite link is only used when it is beneficial to do so (col. 2, lines 30-55) and where the second network comprises a satellite network (col. 7, lines 47-56). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have a transmitter, responsive to the server, to transmit a portion of the video content over a second network, the portion of the content being transmitted in addition to the content which is served to the local service provider via the first network, the second network being independent from the first network and providing additional bandwidth so that the

Art Unit: 2665

transmitter can serve the portion of the video content to the local service provider in an event that the portion of the video content is not served via the first network within a designated time period and where the second network is a satellite network.

5. Regarding claims 52 and 65, Applicant in view of Sathe discloses that the network port comprises a connector compatible with a wire-based communications network (Applicant: page 1, line 9-page 7, line 10); and the transmitter comprises a transmitter capable of transmitting signals over a wireless medium (Sathe: col. 7, lines 47-56).

6. Regarding claims 53 and 66, Applicant in view of Sathe discloses that the server is further configured to serve the video content to the local service provider in response to requests from the multiple clients (Applicant: page 1, line 9-page 7, line 10).

7. Regarding claims 54 and 67, Applicant in view of Sathe discloses that the server is further configured to serve the content to at least one other local service provider which provides the video content to multiple clients (Applicant: page 1, line 9-page 7, line 10).

8. Regarding claims 55 and 68, Applicant in view of Sathe discloses that the server is further configured to serve the video content to at least one other local service provider which provides the video content to multiple clients (Applicant: page 1, line 9-page 7, line 10); and the transmitter is further configured to transmit the video content over the second network to the at least one other local service provider (Sathe: col. 7, lines 47-56).

9. Regarding claims 56, 57, 69, and 70, incorporating the rejection of claims 51 and 64, Applicant in view of Sathe discloses each limitation of claims 56, 57, 69, and 70, as outline in claims 51 and 64, except that the satellite network is a broadcast satellite network and uni-directional such that the content is broadcast in one direction from the server to the local service

Art Unit: 2665

provider. However, Applicant in view of Sathe suggests that the satellite network is a broadcast satellite network and uni-directional such that the content is broadcast in one direction from the server to the local service provider since the server broadcasts streams to multiple clients in a uni-directional fashion (Applicant: page 1, line 9-page 7, line 10). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a broadcast satellite network, where the broadcast satellite network is uni-directional such that the content is broadcast in one direction from the server to the local service provider, in order to allow the server to broadcast a stream to multiple service providers and clients.

10. Regarding claims 58 and 71, Applicant in view of Sathe discloses that the broadcast satellite network includes additional bandwidth to communicate the video content from the server to the local service provider (Sathe: col. 2, lines 30-55 and col. 7, lines 47-56).

11. Regarding claims 59 and 72, Applicant in view of Sathe suggests that the broadcast satellite network includes additional bandwidth to communicate a portion of the video content from the server to the local service provider in an event that the high-speed, high-bandwidth network does not communicate the portion of the video content within a designated time period (Sathe: col. 2, lines 30-55 and col. 7, lines 47-56).

12. Regarding claims 60 and 73, Applicant in view of Sathe suggests that the server is further configured to serve a first portion of the video content to the local service provider via the high-speed, high-bandwidth network, and serve a second portion of the video content to the local service provider via the broadcast satellite network (Sathe: col. 2, lines 30-55 and col. 7, lines 47-56).

Art Unit: 2665

13. Regarding claims 61 and 74, Applicant in view of Sathe discloses that the server is further configured to serve the video content to the local service provider in response to requests from the multiple clients (Applicant: page 1, line 9-page 7, line 10).

14. Regarding claims 62 and 75, Applicant in view of Sathe discloses that the server is further configured to serve the content to at least one other local service provider which provides the content to multiple clients (Applicant: page 1, line 9-page 7, line 10).

15. Regarding claims 63 and 76, Applicant in view of Sathe discloses that the server is further configured to serve the video content to at least one other local service provider which provides the video content to multiple clients (Applicant: page 1, line 9-page 7, line 10); and the broadcast satellite network is further configured to communicate the video content from the server to the at least one other local service provider (Sathe: col. 2, lines 30-55 and col. 7, lines 47-56).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bishop, Jr. (USPN 5,523,997) see entire document which pertains to using a satellite system to bypass a terrestrial network and to minimizing propagation delay through a network.

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after


Art Unit: 2665


the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 7:00-4:30 with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 Daniel J. Ryman
Examiner
Art Unit 2665


HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600